



TR.CMP.No.58 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 02.03.2023

CORAM

HON'BLE JUSTICE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

TR.CMP.No.58 of 2023

and

CMP.No.1515 of 2023

P.Gokila

...Petitioner/Respondent

Vs

R.Arunprasad

...Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C. to withdraw H.M.O.P.No.757 of 2017 pending on the file of the Principal Family Court, Coimbatore and transfer the same to the file of the Sub Court, Palladam, Tiruppur District to be tried along with H.M.O.P.No.104 of 2022 pending on the file of the Sub Court, Palladam, Tiruppur District.

For Petitioner : Mr.A.Tamilarasan

For Respondent : Mr.B.Jawahar



TR.CMP.No.58 of 2023

WEB COPY

ORDER

This Transfer Civil Miscellaneous Petition is filed by the Petitioner/P.Gokila seeking to withdraw the H.M.O.P. No.757 of 2017 pending on the file of the learned Principal Judge, Family Court, Coimbatore and transfer the same to the file of the Sub Court, Palladam, Tiruppur, District.

2.The learned Counsel for the Respondent present in the Court. As per his Submissions, H.M.O.P. No.757 of 2017 was filed by the husband/ Respondent herein seeking divorce and that H.M.O.P. was about to be taken up for trial, at the stage of cross-examination and part heard stage, the wife/ Petitioner herein had filed H.M.O.P.No.104 of 2022 on the file of the learned Sub-Judge, Palladam, Tiruppur District. Now in continuation of the same, this Transfer Civil Miscellaneous Petition has been filed with the ulterior motive to delay the trial of the case filed by the husband in the year 2017 and till date it has been pending only for the lack of co-operation from the wife/ Respondent in H.M.O.P.No.757 of 2017.



TR.CMP.No.58 of 2023

3.The objection of the learned Counsel for the Respondent even though found reasonable, cannot be accepted by this Court, in the light of the guidelines issued by the Hon'ble Supreme Court regarding the matrimonial dispute. As per the said guidelines, when the case arising out of the matrimonial dispute are instituted, it shall be in the place nearer to the place of residence of the wife.

4.In the light of the above guidelines, the objections of the learned Counsel for the Respondent has to be rejected. Therefore the H.M.O.P.No.757 of 2017 on the file of the learned Principal Judge, Family Court, Coimbatore is withdrawn and the same is transferred to the file of the learned Sub-Judge Palladam, Tiruppur District.

5.Considering the plight of the Respondent/ Petitioner in H.M.O.P.No.757 of 2017, as he having filed H.M.O.P. for divorce and having been waiting patiently for all these years, if the case is transferred at the stage of commencement of trial to the file of the learned Sub-Judge, it has to be assigned a new number and it will have the case number as 2023, therefore the learned Sub-Judge, Palladam is directed to give utmost priority to the H.M.O.P.No.757 of 2017 to take it out of



TR.CMP.No.58 of 2023

turn priority for disposal, either jointly with H.M.O.P.No.104 of 2022 or separately, as the parties and the Counsel preferred that it shall be disposed of along with the H.M.O.P.No.757 of 2017, without any delay.

6. The learned Principal Judge Family Court, Coimbatore is directed to send the records relating to H.M.O.P. No.757 of 2017 to the Court of the learned Sub Judge, Palladam, within a period of one month from the date of receipt of a copy of this order by duly indexed.

7.The learned Sub-Judge, Palladam, on receipt of the original records in H.M.O.P.No.757 of 2017, shall allot a new number and issue notice to both the, parties i.e. the Respondent herein/ Petitioner in H.M.O.P.No.757 of 2017 and the Petitioner herein/ Respondent in H.M.O.P.No.757 of 2017, according to the latest number assigned for in the docket of the H.M.O.P.No.757 of 2017, it shall be clearly written in a red ink for every page of the case that the case is of the year 2017 and it shall be given top priority. The case shall be disposed of without granting adjournment at the request of the Counsel for the wife. The Court shall dispose of the case within a period of three months from the date of receipt of the



TR.CMP.No.58 of 2023

records and after the learned Counsel for the Respondent herein/ the Petitioner in H.M.O.P.No.757 of 2017 filed counter in H.M.O.P.No.104 of 2022 within the stipulated time and be ready with the trial in both the cases.

8.The learned Sub-Judge Palladam, Tiruppur District shall endeavour to dispose of the case in top priority at the earliest time by giving opportunity to both the parties. Unnecessary adjournment shall be avoided. Therefore, it should be taken to be disposed out of turn priority and dispose with three reasonable time from the date of appearance of the parties after receipt of the records of the Court concerned.

Accordingly, this Transfer Civil Miscellaneous Petition is disposed of. Consequently connected Civil Miscellaneous Petition is closed.

02.03.2023

dsn

Index : Yes/No

Speaking Order/ Non-speaking Order



WEB COPY



TR.CMP.No.58 of 2023

SATHI KUMAR SUKUMARA KURUP, J.

dsn

To

- 1.The Principal Family Court, Coimbatore
- 2.The Sub-Court, Palladam, Tiruppur District.

TR.CMP.No.58 of 2023

02.03.2023